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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------|-------------|----------------------|---------------------|------------------|
| 10/056,680 | 01/25/2002 | Teddy Kosoglou | CV01492K | 9993 |
| 24265 | 7590 | 08/02/2005 | EXAMINER | |
| SCHERING-PLOUGH CORPORATION | | | HUI, SAN MING R | |
| PATENT DEPARTMENT (K-6-1, 1990) | | | | |
| 2000 GALLOPING HILL ROAD | | | ART UNIT | PAPER NUMBER |
| KENILWORTH, NJ 07033-0530 | | | 1617 | |

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| Communication Re: Appeal | Application No. | Applicant(s) |
|---------------------------------|-----------------|-----------------|
| | 10/056,680 | KOSOGLOU ET AL. |
| | Examiner | Art Unit |
| | San-ming Hui | 1617 |

-- **The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

1. The Notice of Appeal filed on _____ is not acceptable because:
 - (a) it was not timely filed.
 - (b) the statutory fee for filing the appeal was not submitted. See 37 CFR 41.20(b)(1).
 - (c) the appeal fee received on _____ was not timely filed.
 - (d) the submitted fee of \$_____ is insufficient. The appeal fee required by 37 CFR 41.20(b)(1) is \$_____.
 - (e) the appeal is not in compliance with 37 CFR 41.31(a)(1) in that no claim has been twice rejected.
 - (f) a Notice of Allowability, PTO-37, was mailed by the Office on _____.

2. The appeal brief filed on November 5, 2004 is NOT acceptable for the reason(s) indicated below:

please see the following pages for details.

 - (a) the brief and/or brief fee is untimely. See 37 CFR 41.37(a).
 - (b) the statutory fee for filing the brief has not been submitted. See 37 CFR 41.20(b)(2).
 - (c) the submitted brief fee of \$_____ is insufficient. The brief fee required by 37 CFR 41.20(b)(2) is \$_____.

The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. See 37 CFR 41.37(a)(1). Extensions of time may be obtained under 37 CFR 1.136(a). See 37 CFR 41.37(e).

3. The appeal in this application is DISMISSED because:
 - (a) the statutory fee for filing the brief as required under 37 CFR 41.20(b)(2) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (b) the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136(a) has expired.
 - (c) a Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on _____.
 - (d) other: _____.

4. Because of the dismissal of the appeal, this application:
 - (a) is abandoned because there are no allowed claims.
 - (b) is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
 - (c) is before the examiner for consideration.

DETAILED ACTION

Notice of Defective Appeal Brief

The Appeal Brief filed November 5, 2004 is defective for the following reasons:

Application's Appeal Brief was filed under the rules set forth in 37 CFR 1.192(c).

However, the rules under 35 USC 1.192(c) were replaced by 37 CFR 41.37(c). And subsequently the following sections are missing from the Appeal Brief:

- (1) "Summary of claimed subject matter" as set forth in 37 CFR § 41.37(c)(1)(v);
- (2) "Grounds of rejection to be reviewed on appeal" as set forth in 37 CFR § 41.37(c)(1)(vi) (replaced "Issues for Review" and "Grouping of Claims");
- (3) "Claims appendix," as set forth in 37 CFR § 41.37(c)(1)(viii) (replaced "Appendix;")
- (4) "Evidence appendix," as set forth in 37 CFR § 41.37(c)(1)(ix); and
- (5) "Related proceedings appendix," as set forth in 37 CFR § 41.37(c)(1)(x).

It is required that a substitute Appeal brief be submitted that is in compliance with 37 CFR §41.37(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to San-ming Hui whose telephone number is (571) 272-0626. The examiner can normally be reached on Mon 9:00 to 1:00, Tu - Fri from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, PhD., can be reached on (571) 272-0629. The fax

Art Unit: 1617

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



San-ming Hui
Primary Examiner
Art Unit 1617